

Executive Summary – Enforcement Matter – Case No. 44461
Maximus Coffee Group, LP
RN100214931
Docket No. 2012-1316-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Maximus Coffee Group, 3900 Harrisburg Boulevard, Houston, Harris County

Type of Operation:

Rice and coffee processing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 26, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,884

Amount Deferred for Expedited Settlement: \$2,176

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,708

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Docket No. 2012-1316-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 27 to April 6, 2012

Date(s) of NOE(s): June 15, 2012

Violation Information

1. Failed to maintain compliance with the maximum allowable emission rates ("MAER") for Emission Point Numbers ("EPNs") 103, 107, 108, 259, and 262. Specifically, Respondent exceeded the EPN 103 particulate matter ("PM") MAER of 2.67 pounds per hour ("lbs/hr") by 0.82 lb/hr for 514 hours from August 1, 2009 to December 31, 2009, and by 0.82 lb/hr for 1,129 hours in 2010; exceeded EPNs 107 and 108 PM MAER of 0.03 lb/hr by 0.06 lb/hr and 0.02 lb/hr, respectively, for 480 hours each in 2010; exceeded the EPN 259 carbon monoxide ("CO") MAER of 0.13 lb/hr and the nitrogen oxides ("NOx") MAER of 0.15 lb/hr by 0.02 lb/hr and 0.03 lb/hr, respectively, for 4,479 hours in 2010; and exceeded the EPN 262 CO MAER of 0.06 lb/hr and the NOx MAER of 0.08 lb/hr by 0.09 lb/hr and 0.1 lb/hr, respectively, for 6,692 hours in 2010, the EPN 262 CO MAER of 0.28 ton per year ("TPY") by 0.22 ton in 2010, the EPN 262 NOx MAER of 0.33 TPY by 0.26 ton in 2010, and the EPN 262 volatile organic compounds ("VOC") MAER of 0.02 TPY by 0.01 ton in 2010. The total unauthorized emissions are estimated to be 1,369.26 lbs of PM, 1,499.46 lbs of NOx, 1,279.23 lbs of CO, and 26.15 lbs of VOC [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 17723, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1018, Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to report all instances of deviations within 30 days after the end of the reporting period. Specifically, the semi-annual deviation reports for the reporting periods from February 1, 2011 through July 31, 2011 and August 1, 2011 through January 31, 2012 did not include deviations for failing to create final records of four emissions events no later than two weeks after the end of the emissions events [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), FOP No. O1018, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

a. By May 18, 2012, implemented measures and procedures to ensure all deviations are included in semi-annual deviation reports and submitted a supplemental deviation report which included the deviations for failing to create final records of four emissions events no later than two weeks after the end of the emissions events; and

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RN100214931
Docket No. 2012-1316-AIR-E

b. On January 28, 2013, submitted a permit application to amend Permit No. 17723 to increase the allowable emission rates.

Technical Requirements:

The Order will require Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days, submit written certification that a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: David S. Geis, Technical Services Manager, Maximus Coffee Group, LP, 3900 Harrisburg Boulevard, Houston, Texas 77003
Respondent's Attorney: Rebecca J. Rentz, Attorney, Winstead PC, 1100 JPMorgan Chase Tower, 600 Travis Street, Houston, Texas 77002



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Jun-2012	Screening	2-Jul-2012	EPA Due	12-Mar-2013
	PCW	7-May-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Maximus Coffee Group, LP				
Reg. Ent. Ref. No.	RN100214931				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	44461	No. of Violations	2
Docket No.	2012-1316-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,700
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	42.0% Enhancement	Subtotals 2, 3, & 7	\$3,234
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Notes	Enhancement for one NOV with dissimilar violations, and two orders with denial of liability.		
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.		
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$50
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,017	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,250	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,884
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		Final Penalty Amount	\$10,884
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,884
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,176
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.		
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PAYABLE PENALTY	\$8,708
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Screening Date 2-Jul-2012

Docket No. 2012-1316-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 44461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 42%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 2-Jul-2012

Docket No. 2012-1316-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 44461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Permit No. 17723, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1018, Special Terms and Conditions No. 5, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain compliance with the maximum allowable emission rates ("MAER") for Emission Point Numbers ("EPNs") 103, 107, 108, 259, and 262. Specifically, the Respondent exceeded the EPN 103 particulate matter ("PM") MAER of 2.67 pounds per hour ("lbs/hr") by 0.82 lb/hr for 514 hours from August 1, 2009 to December 31, 2009, and by 0.82 lb/hr for 1,129 hours in 2010; exceeded EPNs 107 and 108 PM MAER of 0.03 lb/hr by 0.06 lb/hr and 0.02 lb/hr, respectively, for 480 hours each in 2010; exceeded the EPN 259 carbon monoxide ("CO") MAER of 0.13 lb/hr and the nitrogen oxides ("NOx") MAER of 0.15 lb/hr by 0.02 lb/hr and 0.03 lb/hr, respectively, for 4,479 hours in 2010; and exceeded the EPN 262 CO MAER of 0.06 lb/hr and the NOx MAER of 0.08 lb/hr by 0.09 lb/hr and 0.1 lb/hr, respectively, for 6,692 hours in 2010, the EPN 262 CO MAER of 0.28 ton per year ("TPY") by 0.22 ton in 2010, the EPN 262 NOx MAER of 0.33 TPY by 0.26 ton in 2010, and the EPN 262 volatile organic compounds ("VOC") MAER of 0.02 TPY by 0.01 ton in 2010. The total unauthorized emissions are estimated to be 1,369.26 lbs of PM, 1,499.46 lbs of NOx, 1,279.23 lbs of CO, and 26.15 lbs of VOC.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

517 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	x
	annual	
	single event	

Violation Base Penalty \$7,500

Three semiannual events are recommended for the exceedances that occurred from August 1, 2009 through December 31, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,008

Violation Final Penalty Total \$10,650

This violation Final Assessed Penalty (adjusted for limits) \$10,650

Economic Benefit Worksheet

Respondent Maximus Coffee Group, LP
Case ID No. 44461
Reg. Ent. Reference No. RN100214931
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Aug-2009	12-Aug-2013	4.03	\$1,008	n/a	\$1,008

Notes for DELAYED costs

Estimated cost to implement measures to comply with permitted emission rates for PM, CO, NOx, and VOC. The Date Required is the date the exceedance began. The Final Date is the date that corrective actions are expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,008

Screening Date 2-Jul-2012

Docket No. 2012-1316-AIR-E

PCW

Respondent Maximus Coffee Group, LP

Policy Revision 2 (September 2002)

Case ID No. 44461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214931

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), FOP No. O1018, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to report all instances of deviations within 30 days after the end of the reporting period. Specifically, the semi-annual deviation reports for the reporting periods from February 1, 2011 through July 31, 2011 and August 1, 2011 through January 31, 2012 did not include deviations for failing to create final records of four emissions events no later than two weeks after the end of the emissions events.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

The Respondent failed to meet less than 30% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2

364 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$200

Two single events are recommended for the two incomplete deviation reports.

Good Faith Efforts to Comply

25.0% Reduction

\$50

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent completed corrective actions on May 18, 2012, prior to the June 15, 2012 NOE.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$234

This violation Final Assessed Penalty (adjusted for limits) \$234

Economic Benefit Worksheet

Respondent Maximus Coffee Group, LP
Case ID No. 44461
Reg. Ent. Reference No. RN100214931
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	30-Aug-2011	18-May-2012	0.72	\$9	n/a	\$9
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement measures and procedures to ensure all deviations are included in semi-annual deviation reports. The Date Required was the due date for the first semi-annual report. The Final Date is the date that corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$9



Compliance History Report

PUBLISHED Compliance History Report for CN603143967, RN100214931, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

Customer, Respondent, or Owner/Operator:	CN603143967, Maximus Coffee Group, LP	Classification:	AVERAGE	Rating:	12.50
Regulated Entity:	RN100214931, MAXIMUS COFFEE GROUP	Classification:	AVERAGE	Rating:	12.50
Complexity Points:	0	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	3900 HARRISBURG BOULEVARD, HOUSTON, HARRIS COUNTY, TEXAS				
TCEQ Region:	REGION 12 - HOUSTON				

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0473P
POLLUTION PREVENTION PLANNING ID NUMBER P03226

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE
 REGISTRATION # (SWR) 32011
AIR NEW SOURCE PERMITS PERMIT 17241
AIR NEW SOURCE PERMITS PERMIT 19177
AIR NEW SOURCE PERMITS REGISTRATION 45721
AIR NEW SOURCE PERMITS REGISTRATION 46556
AIR NEW SOURCE PERMITS REGISTRATION 46897
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0473P
AIR NEW SOURCE PERMITS PERMIT 56398
AIR NEW SOURCE PERMITS REGISTRATION 54368
STORMWATER PERMIT TXR05V674

AIR OPERATING PERMITS PERMIT 1018
INDUSTRIAL AND HAZARDOUS WASTE EPA ID
 TXD057185654
AIR NEW SOURCE PERMITS REGISTRATION 12356
AIR NEW SOURCE PERMITS PERMIT 17723
AIR NEW SOURCE PERMITS REGISTRATION 37950
AIR NEW SOURCE PERMITS REGISTRATION 46557
AIR NEW SOURCE PERMITS REGISTRATION 46558
AIR NEW SOURCE PERMITS REGISTRATION 47197
AIR NEW SOURCE PERMITS AFS NUM 4820100106
AIR NEW SOURCE PERMITS REGISTRATION 70058
AIR NEW SOURCE PERMITS PERMIT 107637
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0473P

Compliance History Period:	September 01, 2006 to August 31, 2011	Rating Year:	2011	Rating Date:	09/01/2011
Date Compliance History Report Prepared:	March 27, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	March 27, 2008 to March 27, 2013				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Kimberly Morales

Phone: (713) 422-8938

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 06/01/2009 ADMINORDER 2008-1619-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to submit deviation reports for the period February 1, 2007 through July 31, 2007.

2 Effective Date: 11/15/2010 ADMINORDER 2010-0457-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 ORDER

Special Term and Condition 5 OP

Description: Failure to maintain PM emissions below the permitted limits for EPN 104A. (Category A8(c)(2)(A)(ii) violation - HPV)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Special Term and Condition 5 OP

Description: Failure to maintain emissions for PM and SO2 below the permitted limits for EPN 404. (Category A8(c)(2)(A)(ii) violation - HPV)

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to report exceedance of emission limits for PM and SO2 as a deviation. (Category B3 violation - repeat violation)

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	01/07/2013 (1043066)	CN603143967
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 335, SubChapter A 335.6(c)	
	Description:	Maximus failed to update their Notice of Registration (NOR).	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 335, SubChapter C 335.62 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11	
	Description:	Maximus failed to conduct hazardous waste determinations on five waste streams that were generated within the last three years, which included WS0021001H-hazardous waste lab packs, coffee wastewater sludge (WS00345042-rice wastewater sludge), spent coffee grounds, ash from boiler, and parts washer waste.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 335, SubChapter A 335.6(h)	
	Description:	The facility failed to submit a recycling notification to the TCEQ for the spent coffee grounds waste stream burned in the boiler.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 335, SubChapter O 335.431(c) 40 CFR Chapter 268, SubChapter I, PT 268, SubPT A 268.7(a)(2)	
	Description:	Maximus failed to provide an adequate Land Disposal Restriction (LDR) document for WS0021001H (hazardous waste lab packs). The facility provided a document which did not state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination."	
	Self Report?	NO	Classification: Moderate

Published Compliance History Report for CN603143967, RN100214931, Rating Year 2011 which includes Compliance History (CH) components from March 27, 2008, through March 27, 2013.

Citation:	40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)	
Description:	Maximus failed to label two used oil containers with the words "Used Oil."	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.10(c) 30 TAC Chapter 335, SubChapter A 335.13(i) 40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20(a)(1) 40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.42(b)	
Description:	Maximus failed to retain a copy of the designated facility's signed and/or write the Texas Waste Code on manifests.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A) 30 TAC Chapter 335, SubChapter E 335.112(a)(8) 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i) 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174	
Description:	The facility failed to conduct weekly inspections on hazardous waste containers in WMU 002 for leaking and/or deterioration of containers caused by corrosion or other factors.	

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MAXIMUS COFFEE GROUP, LP
RN100214931**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1316-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Maximus Coffee Group, LP ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Rebecca J. Rentz of the law firm of Winstead PC, together stipulate that:

1. The Respondent owns and operates a rice and coffee processing plant at 3900 Harrisburg Boulevard in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Eight Hundred Eighty-Four Dollars (\$10,884) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Seven Hundred

Eight Dollars (\$8,708) of the administrative penalty and Two Thousand One Hundred Seventy-Six Dollars (\$2,176) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By May 18, 2012, implemented measures and procedures to ensure all deviations are included in semi-annual deviation reports and submitted a supplemental deviation report which included the deviations for failing to create final records of four emissions events no later than two weeks after the end of the emissions events; and
 - b. On January 28, 2013, submitted a permit application to amend Permit No. 17723 to increase the allowable emission rates.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to maintain compliance with the maximum allowable emission rates ("MAER") for Emission Point Numbers ("EPNs") 103, 107, 108, 259, and 262, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Permit No. 17723, Special Conditions No. 1, Federal Operating Permit ("FOP") No. O1018, Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted from March 27 to April 6, 2012. Specifically, the Respondent exceeded the

EPN 103 particulate matter ("PM") MAER of 2.67 pounds per hour ("lbs/hr") by 0.82 lb/hr for 514 hours from August 1, 2009 to December 31, 2009, and by 0.82 lb/hr for 1,129 hours in 2010; exceeded EPNs 107 and 108 PM MAER of 0.03 lb/hr by 0.06 lb/hr and 0.02 lb/hr, respectively, for 480 hours each in 2010; exceeded the EPN 259 carbon monoxide ("CO") MAER of 0.13 lb/hr and the nitrogen oxides ("NOx") MAER of 0.15 lb/hr by 0.02 lb/hr and 0.03 lb/hr, respectively, for 4,479 hours in 2010; and exceeded the EPN 262 CO MAER of 0.06 lb/hr and the NOx MAER of 0.08 lb/hr by 0.09 lb/hr and 0.1 lb/hr, respectively, for 6,692 hours in 2010, the EPN 262 CO MAER of 0.28 ton per year ("TPY") by 0.22 ton in 2010, the EPN 262 NOx MAER of 0.33 TPY by 0.26 ton in 2010, and the EPN 262 volatile organic compounds ("VOC") MAER of 0.02 TPY by 0.01 ton in 2010. The total unauthorized emissions are estimated to be 1,369.26 lbs of PM, 1,499.46 lbs of NOx, 1,279.23 lbs of CO, and 26.15 lbs of VOC.

2. Failed to report all instances of deviations within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), FOP No. O1018, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted from March 27 to April 6, 2012. Specifically, the semi-annual deviation reports for the reporting periods from February 1, 2011 through July 31, 2011 and August 1, 2011 through January 31, 2012 did not include deviations for failing to create final records of four emissions events no later than two weeks after the end of the emissions events.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Maximus Coffee Group, LP, Docket No. 2012-1316-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days after the effective date of this Agreed Order, submit written certification that a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davenport
For the Executive Director

8/13/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David S. Geis
Signature

5/29/2013
Date

David S. Geis
Name (Printed or typed)
Authorized Representative of
Maximus Coffee Group, LP

Technical Services Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.